

**Minutes
City Council/Redevelopment Agency
City of Huntington Beach**

Monday, November 6, 2002
5:00 P.M. - Room B-8
7:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

An audiotape of the 5:00 p.m. portion of this meeting
and a videotape of the 7:00 p.m. portion of this meeting
are on file in the Office of the City Clerk.

At 5:00 p.m. there being no quorum present, Deputy City Clerk Kelly Mandic recessed the Council to 6:00 p.m. Notification of this anticipated lack of quorum had been posted on the door of Room B-8, near the entrance to the Council Chambers.

Call to Order

Mayor Pro Tem Boardman called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 5:00 p.m. in Room B8.

City Council/Redevelopment Agency Meeting Roll Call

Present: Green, Dettloff, Boardman, Houchen, Winchell, Bauer
Absent: Cook (arrived 7:00 p.m.)

Public Comments

Nancy Donovan inquired whether or not the Water Pipeline item must be held in open session.

(City Council) Approved Motion to Hold in Open Session Application of Southern California Water for a Franchise to Construct a Water Pipeline in Bolsa Chica and Los Patos Street (Water Line Franchise between Cypress and Bolsa Chica Mesa) (.)

Councilmember Winchell responded to the public speaker, Ms. Donovan's question by making a motion to hold the above-captioned item in open session to be addressed later during the 7:00 p.m. portion of the meeting.

A motion was made by Winchell, second Houchen to hold in open session discussion concerning granting a franchise to California Water Company for a franchise to construct a water pipeline in Bolsa Chica and Los Patos Street from Westminster border to the Bolsa Chica. The motion carried unanimously with all present, Cook absent.

Motion to Recess to Closed Session – Approved

A motion was made by Houchen, second Winchell to recess to Closed Session on the following items. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Houchen, Winchell, Bauer
NOES: None
ABSENT: Cook (arrived 7:00 p.m.)

(City Council) Closed Session – Pursuant to Government Code Section 549527.6 to meet with its designated representatives, Agency Negotiators: William Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Acting Director of Community Services; and Steven M. Berliner, Esq. of Liebert Cassidy Whitmore regarding **labor relations matters – meet and confer** with the following employee organizations: **PMA, POA, MSOA, FMA, FFA, HBMEA, HBMEO, and SCLEA.** Subject: **Labor Relations – Meet and Confer.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **Center for Bio-Ethical Reform, Inc. v. City of Huntington Beach, et al.**; U.S. District Court Case No. CV-SA02-910 AHS (ANX). Subject: **Center for Bio Ethical Reform, Inc. v. City of Huntington Beach, et al.** (120.80)

Reconvened City Council/Redevelopment Agency Meeting – 7:00 P.M. – Council Chambers.

City Council-Redevelopment Agency Roll Call

Present: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer

Absent: None

No Actions Taken Which Require a Reporting Pursuant to Government Code §54957.1(a) (3) (B)).

Mayor Cook asked City Attorney Gail Hutton if there were any actions taken by the City Council or Redevelopment Agency in Closed Session that required a reporting. City Attorney Hutton responded that there were no actions to report.

Flag Ceremony/Pledge of Allegiance – Led by Boy Scouts from the Church of Jesus Christ of Latter Day Saints, Huntington Beach North Stake. Scout Master Julie Brashears.

The City Clerk Announced Late Communications

Pursuant to the Brown (Open Meetings) Act, the City Clerk announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Slide show presentation received November 5, 2002 from Administration titled *Warner Avenue Pavement Rehabilitation Construction Schedule.*

Slide show presentation dated November 6, 2002 from Shari Freidenrich, City Treasurer, titled *Treasurer's Report.*

Communication dated November 5, 2002, written by Erik W. Stanley, Esq. Of Liberty Counsel received November 6, 2002 from Applicant/Appellant Reverend Derek Anunciation, Pastor, Praise Christian Center.

Communication dated November 6, 2002 from Howard Zelefsky, Director of Planning titled *Item D-1 – Appeal of CUP No. 02-11 (Praise Christian Church – 18851 Goldenwest St.)*

Slide show presentation dated November 6, 2002 from the Planning Department titled *Appeal of Conditional Use Permit No. 02-11 Praise Christian Church, 18851 Goldenwest St.*

Slide show presentation dated November 6, 2002 from the Planning Department titled *Appeal of Entitlement Plan Amendment No. 02-04, Old World Village Separate Occupancy, 7561 Center Avenue.*

Slide show presentation dated November 6, 2002 from Clay Martin, Director of Administrative Services and Amy Bodek, Real Estate Services Manager titled *Southern California Water Company's Request for Franchise.*

Communication from Administration transmitting the Cooperative Agreement between the Harbors, Beaches and Parks District (County) with the City dated December 26, 1985 titled *County of Orange Environmental Management Agency.*

Slide show presentation received November 5, 2002 from Community Services Department titled *Huntington Harbor Issues.*

One communication received in favor of the *Proposed Amendments Regarding Huntington Harbor and Boating Regulations.* Twenty-nine communications received in opposition to the *Proposed Amendments Regarding Huntington Harbor and Boating Regulations.*

Slide show presentation received November 6, 2002 from the Planning Department titled *Use of Parking In-Lieu Fees.*

Two communications received in favor of *Prohibiting Performances of Wild and Exotic Animals for Public Entertainment or Amusement.* Ten communications received in opposition to *Prohibiting Performances of Wild and Exotic Animals for Public Entertainment or Amusement.*

The Following Additional Late Communications Were Submitted During the Meeting:

Communication submitted by Ralph Thorne in opposition to Item F-2 (Huntington Harbour and Boating Regulations) titled *Thorne.*

Communication submitted by Gary Brown titled *Orange County Health Care Agency, Environmental Health Division Huntington Harbour, Clubhouse Marina.*

Communication dated November 6, 2002 submitted by David Buehn titled *Huntington Beach City Council Meeting 11/6/02 Re: Huntington Harbor Assessment District, Creation of.*

Communication submitted by Clement Aime dated November 6, 2002 titled *Huntington Beach City Council Meeting, November 6, 2002 Addressing: Drafting Municipal Code Amendments to the Huntington Harbour and Boating Regulations (Including Live Aboards).*

PowerPoint presentation titled *Presentation to Huntington Beach City Council* dated November 6, 2002 and brochure dated May 23, 2002 titled *Heal the Bay's 12th Annual Beach Report Card* both submitted by Gregory Lee.

Communication submitted by Alan Armstrong titled *Comparison of some fees for boats*.

Communication dated November 5, 2002 regarding Huntington Harbour submitted by Ron Foland titled *To the City Council of Huntington Beach*.

Communication submitted by William Crawford III dated November 6, 2002 titled *Scuba Duba Corporation* in opposition to the proposed amendments to Huntington Harbour Boating regulations.

Communication submitted by Administration dated November 6, 2002 from Blumberg, Lorber, Nelson LLP to Cindy McMullen for Mayor Cook and City Council Members titled *Reference: Our Client "ARC" – Animal Resource Coalition*.

Communication dated November 6, 2002 submitted by Nossaman, Guthner, Knox & Elliott, LLP titled *Re: Opposition to Proposed Item G-2a "Approve Introduction of Ordinance No. 3586 Amending the Huntington Beach Municipal Code by Adding Chapter 7.14 Prohibiting Performances of Wild and Exotic Animals for Public Entertainment or Amusement and Restricting the Display of Wild and Exotic Animals." Alternative Request for Continuance of Same*.

Communication submitted by Priscilla Gargolis dated 2002 titled *the Elephant Sanctuary in Hohenwald*.

Mayors Award to Police Captain Jim Cutshaw - The Mayor's Award was presented by Mayor Debbie Cook, Police Chief Kenneth Small and Captain Jim Cutshaw to Detective Don Howell. Police Chief Small spoke regarding Detective Howell's dedication and his career accomplishments. (160.40)

Mayor Cook announced she had just returned from a visit to Piha, New Zealand and had a wonderful time.

A motion was made by Houchen, second Dettloff to move forward after Public Comments the City Attorney and Special Projects Manager Administrative Item regarding Huntington Harbour and Boating Regulations (Including Live Aboards). The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

Public Comments

Ron Shenkman, Rainbow Disposal representative, announced his company will be recycling campaign signs at no charge and will also return signs to the candidates if they desire.

Nancy Donaven, representing the Bolsa Chica Land Trust, urged Council not to adopt Ordinance Nos. 3584 and 3585 relative to Parkside Estates. Ms. Donaven expressed her belief that the property being considered for the Parkside Estates project is reconstructed wetlands, and if left as wetlands would benefit Huntington Harbour.

(City Council) Council Comments Re: Parkside Estates Coastal Development Permit (CDP) (440.50)

Councilmember/Coastal Commissioner Dettloff reported the plan of action regarding the city process as well as aspects of the history of the matter. She reported that the Coastal Commission will proceed with the Coastal Development Permits (CDP). Councilmember Dettloff stated that there might be an appeal on the open space areas to ensure buffers are adequate. She reported that the most important thing is that the City process that plan exactly as described by the Coastal Commission, but because so many years passed between the start of that planning process and currently, that it has been decided between the applicant, the city and the Coastal Commission that the city will apply for the Local Coastal Program Amendment (LCPA); the developer will apply for the Coastal Development Permit (CDP) which means that the entire project will be reviewed by the Coastal Commission. She stated that after the city's decision the city discussed with the developer that it might be in the best interest of both the city and the developer to do another review of the wetlands area even though several of the agencies that have jurisdiction in wetlands determinations had determined that it was wetlands because some questions had been raised, not only with the Coastal Commission staff to take a look at it, but that also there will be a complete review, probably by a consultant, selected by the developer, city, and the Coastal Commission to take a look at it. She spoke further regarding the intent of the process.

Public Comments Resumed

Cathy Rasmussen offered an Invocation due to the absence of the Invocation from the agenda.

Barbara Boskovich, at-large member of the Mobile Home Advisory Board, spoke regarding the Mobile Home Advisory Board members' hopes to be able to return to Council on mobile home conversions. She stated that the Board will review the proposed Mobile Home conversion ordinances and should return with recommendations for the Planning Commission and City Council to consider.

Peter Albini, City Council Candidate, thanked the outgoing Councilmembers for their dedicated service and congratulated those council candidates who were elected to Council.

The following public speakers came forward, mostly residents of Huntington Harbour, and urged Council not to take action on an Administrative Item regarding drafting Municipal Code Amendments which will affect Huntington Harbour and Boating Regulations including live-a-boards.

They spoke regarding the need for further review of all of the issues such as:

- 1) water quality and the Clean Water Act of the United States;
- 2) dock construction and permitting;
- 3) pier head lines should be updated;
- 4) the County and Cities financial responsibility regarding funding of the dredging;
- 5) urban runoff polluting the harbor from storm drains and flood channels littered with trash;
- 6) the negative effect of property values if the existing pier head line violations are enforced;
- 7) the draft proposal of cleaning vessels could be an environmental hazard;
- 8) research alternative funding for the cost of the dredging instead of the proposed tax increase to residents;

- 9) the Harbor Patrol patrols on a regular basis therefore is there a need for additional code enforcement;
- 10) questioned if the existing pier head lines are a safety issue since there have been no accidents reported;
- 11) concerns regarding the consultant hired to develop a Huntington Harbour Clean Water and Safe Navigation Boat Fee (for Code Enforcement and Dredging Costs); and
- 12) urged Council to engage residents from Huntington Harbour to work together with staff to solve the issues.

The public speakers spoke in opposition to the proposed code amendments for Huntington Harbour were: **Gary Brown**, Orange County Coast Keeper (submitted a Late Communication titled *Orange County Health Care Agency, Environmental Health Division Huntington Harbour, Clubhouse Marina*; **Mike Raemer**, **Robert Mielke**, **Lee Parker**, **John Trommald**, **Robert Karin**, **Connie Mandic**, **William R. Crawford III** (submitted a Late Communication dated November 6, 2002 titled *Scuba Duba Corporation* in opposition to the proposed amendments to Huntington Harbour Boating regulations); **Robert Hetzler**, **Alan Armstrong** (submitted a Late Communication titled *Comparison of some fees for boats*); **Gregory Lee** (submitted a Late Communication PowerPoint presentation titled *Presentation to Huntington Beach City Council* dated November 6, 2002 and a brochure dated May 23, 2002 titled *Heal the Bay's 12th Annual Beach Report Card*); **Clement Aime** (submitted a Late Communication dated November 6, 2002 titled *Huntington Beach City Council Meeting, November 6, 2002 Addressing: Drafting Municipal Code Amendments to the Huntington Harbour and Boating Regulations (Including Live Aboards)*); **Kathy Greene**, **Allan McGee**, **David Buehn** (submitted a Late Communication dated November 6, 2002 titled *Huntington Beach City Council Meeting 11/6/02 Re: Huntington Harbor Assessment District, Creation of*); **Ron Foland** (submitted a Late Communication regarding Huntington Harbour dated November 5, 2002 titled *To the City Council of Huntington Beach*); **Nat Pendleton**, **Alan Broido**, **Brian Fallon**, **Morris Stone**, **Mike DeHeus**, **Cathy Green**, **Ed Noice**, **Ralph Thorne** (submitted a Late Communication titled *Thorne*); and **Robert Ferguson**.

The following public speakers addressed Council and urged approval of the introduction of Ordinance 3586 prohibiting performances and restricting the display of wild and exotic animals for public entertainment or amusement. They spoke regarding;

- 1) using animals for monetary gain by dressing them up and doing tricks;
- 2) the inhumane capturing, breaking, and training of elephants;
- 3) Public safety and health issues;
- 4) ongoing animal cruelty and suffering in circuses;
- 5) animal control is limited in staff and cannot monitor the incidences; and
- 6) documented incidents of exotic animals attacking innocent people resulting in injury or death.

The public speakers who spoke in favor of Ordinance No. 3586 relating to wild and exotic animals were **Pamelyn Ferdin**; **Priscilla Gargolis** (California Lobby for Animal Welfare submitted a Late Communication titled *the Elephant Sanctuary in Hohenwald*); **Jim Buckley** (American Society for the Prevention of Cruelty to Animals); **Dr. Alison Stanley** (California Lobby for Animal Welfare showed a video of a presentation by Save our Strays (SOS) Karen Chepeka); **Maureen Shrubsole** (Orange County People for Animals (OCPA); **Evelyn Oynebraaten** (OCPA); **Tom Rider** (submitted a video to Council regarding abuses of the elephant handlers); **John Dommers** (The Humane Society of the US); **Jerry Friedman** (Animal Care Foundation); **Christine Franco**; **Dr. Lisa Iyer** (In Defense of Animals); **Julie Meskell**; and **Tanya Petrovna**.

Franklin Rosenberg spoke in opposition of the proposed ordinance banning exotic animals. Mr. Rosenberg stated this ordinance would prohibit the circus from performing in the City of Huntington Beach and is a small step towards future codes banning personal beliefs. He stated his belief that the incidences of animal abuse are minimal.

Flossie Horgan, Bolsa Chica Land Trust, gave various reasons why Council should delay their decision regarding entering into negotiations for a franchise agreement with Southern California Water Company (SCWC).

Eileen Murphy asked Council to postpone its decision on the proposed pipeline franchise agreement with Southern California Water Company (SCWC). She stated the city should wait for the results of the possible settlement of a lawsuit before making a recommendation.

Gerald Chapman urged Council to take no action regarding the proposed franchise agreement with Southern California Water Company (SCWC). Mr. Chapman referred to Chapter 3.44 Section .020 stating that the only agreement is regarding oil; the general provisions does not mention water pipelines.

Jim Erwin informed Council that in his opinion excessive money is spent on campaigns and he would like a cap put on.

Paul Arms, Bolsa Chica Land Trust, asked Council to delay its decision regarding the proposed franchise agreement with Southern California Water Company (SCWC). Mr. Arms stated in his opinion that this agreement would not benefit the city. He stated that there is pending litigation as well as other issues, which should be resolved.

James Fitzpatrick, representing the Motion Picture Association, urged Council not to approve the proposed ordinance regarding exotic animals. He informed Council that he has never seen mistreatment of any animals in 25 years of his filming career. Mr. Fitzpatrick stated that there are Federal and State laws that regulate and protect exotic animals.

Linda Roberson spoke in opposition to the proposed ordinance prohibiting performances and restricting the display of wild and exotic animals for public entertainment or amusement. Ms. Roberson stated that there has never been a single recorded incident of elephants transmitting tuberculosis to a human.

The following Administrative Item was moved forward by unanimous vote with all members, none absent.

(City Council) Directed Staff To Enhance the Existing Water Quality Committee to be Appointed by the Mayor to Address the Following Issues: Clean Water Act of the U.S.; Dock Construction and Permitting; Pierhead Lines; Dredging; Funding and Direct Approval of Additional Meetings be Scheduled Regarding Drafting Municipal Code Amendments to the Huntington Harbour and Boating Regulations (Including Live Aboards) (820.10)

The City Council considered a communication from City Attorney Hutton and Special Projects Manager Ron Hagan requesting Council direction whether to revise the regulations regarding boating in Huntington Harbour.

Special Projects Manager Ron Hagan presented a PowerPoint slide show titled *Huntington Harbor Issues*, which was announced earlier as a Late Communication by the City Clerk.

Special Projects Manager Hagan informed Council that on Wednesday, October 23, 2002 there was a meeting between staff and residents of Huntington Harbour to discuss the issues relating to Harbour and Boating regulations. Councilmembers Dettloff and Councilmember Bauer were also present. He stated that the minutes and a summary of that meeting are included in the agenda packet.

Special Projects Manager Hagan stated that the purpose of bringing this item to Council is for Council to provide staff policy direction regarding drafting code amendments to the harbor and boating regulations.

Mayor Cook announced that the representative from the Regional Water Quality Control Board (RWQCB) would not be in attendance at tonight's meeting. She thanked Special Project Manager Hagan and Councilmembers Bauer and Dettloff for attending the meeting of the RWQCB.

Councilmember Bauer suggested that a committee be formed to include members of the Huntington Harbour Property Owners Association (POA) to review the issues.

Councilmember Bauer expressed the concern that too many items are being covered by the proposed amendments and recommended segregating the issues. He stated that involvement by the Orange County Coast Keeper Organization is a good idea.

Discussion was held which included:

- 1) the Clean Water Act and improving water quality;
- 2) live aboards and urban runoff contributing to high levels of bacteria in the harbor;
- 3) dock construction and permits;
- 4) pier head line violations;
- 5) dredging costs; and
- 6) funding alternatives.

Further discussion ensued relative to the issue of intrusion in a public right-of-way and the fact that private boat owners do not want to pay the permit fees.

Councilmember Dettloff concurred with Councilmember Bauer's remarks. She stated that the Coast Keeper Organization should be part of any study that is done on Huntington Harbour. Councilmember Dettloff stated that she believes it is the intent of the city to improve water quality and that a Harbor Master would insure the quality of life in the harbor.

Councilmember Green received confirmation from Scott Field, Assistant City Attorney, that a consultant had been selected to perform a fee study but the work has not yet been issued on how to proceed.

Councilmember Green spoke in support of Recommended Action No. 2, which recommends that staff work with the County of Orange and appropriate state agencies, along with the Huntington Harbour Property Owners Association, Yacht Club, and marina owners to develop a new standard for pier head lines and enforcement; methods for zoning code enforcement; dredging programs; and the development of appropriate fees and/or charges to pay for the final program.

Mayor Pro Tem Boardman agreed with staff and residents concerns. She stated that these are all issues our city has to face and spoke of the need to move forward in a more collaborative manner. Mayor Pro Tem Boardman urged any interested party in the city to participate in evaluating possible alternatives on the issues.

Councilmember Houchen stated that the consultant performing the fee study should include the Huntington Harbour residents in the scheduled meetings with staff to hear their recommendations. Special Projects Manager Hagan suggested that the Huntington Harbour residents should contact the District Supervisor from the County Board of Supervisors.

Mayor Cook stated that the city is trying to get Federal and State grants to assist with the water quality and dredging issues at Huntington Harbour. She acknowledged that everyone contributes to urban runoff and that there are various environmental groups focusing on this problem.

A motion was made by Bauer, second Cook to enhance the existing Water Quality Committee broadly based to be appointed by the Mayor to address the following issues: **1) Clean Water Act of the U.S.; 2) Dock Construction and permitting; 3) pier head lines; 4) dredging; 5) funding and 6) direct approval that additional meetings be scheduled.** The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Administrator's Report) Announced Revised Schedule for Pavement/Utility Trench Rehabilitation on Warner Avenue from Beach Boulevard to Bolsa Chica Street Beginning Spring 2003 (Includes Projects Required by the Orange County Sanitation District) (160.10)

The City Administrator reported on a revised schedule for pavement rehabilitation on Warner Avenue from Beach Boulevard to Bolsa Chica Street beginning in Spring 2003. The project includes the completion of all known utility trench work, including projects required by the Orange County Sanitation District (OCSD). Funding for the project was received through the successful award of three separate grant applications to the Orange County Transportation Authority (OCTA).

City Engineer David Webb presented a PowerPoint presentation titled *Warner Pavement Rehabilitation* which details additional scheduling information. This PowerPoint was included in the agenda packet.

(City Council) Review and Accept Shari Freidenrich, City Treasurer's September 2002 Report Titled *City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity* (310.20)

The City Council considered a communication from City Treasurer Shari Freidenrich transmitting the Monthly Investment Report for September 2002.

City Treasurer Freidenrich presented a PowerPoint slide show titled *Treasurer's Report*, which was announced earlier as a Late Communication by the City Clerk.

A motion was made by Dettloff, second Boardman to review and accept the monthly report. Following review of the report, by motion of Council, accept the Monthly Investment Report *Summary of Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for September 2002*, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Public Hearing Held - Denied Appeal Filed by Applicant - Praise Christian Church and Derek Annunciation of the Planning Commission's Conditions of Approval of Conditional Use Permit No. 02-11 – Praise Christian Church Located at 17851 Goldenwest Street (n/o of Garfield Avenue) Appeal Based on Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) - Sustained the Decision of the Planning Commission and Approved Conditional Use Permit No. 02-11 with Addition of Condition #13 Area of Benefit Fee as Set Forth in the Interdepartmental Communication Dated November 6, 2002 in the Late Communication Packet. (420.40)

Mayor Cook recused herself from discussion stating that her residence is within 500 feet of the project.

Mayor Pro Tem Boardman announced that this was the time scheduled for a public hearing to consider:

Applicant/Appellant: Michael H. Leifer on behalf of Praise Christian Church and Derek Annunciation.

Request: Appeal of the Planning Commission's Conditions of Approval of Conditional Use Permit No. 02-11 to permit the establishment of a religious assembly use including religious instruction within approximately 2,840 square feet of an existing 21,800 square foot landscape warehouse building. The request includes joint use parking based on divergent hours of operation of uses and the addition of 19 parking spaces on a separate but contiguous parcel located at the northeast portion of the site.

Location: 18851 Goldenwest Street (west side of Goldenwest Street, north of Garfield Avenue).

Environmental Status: Notice is hereby given this agenda item is categorically exempt from the provisions of the California Environmental Quality Act.

Assistant Planner Paul Da Veiga reported from the PowerPoint presentation titled *Item D-1 – Appeal of CUP No. 02-11 (Praise Christian Church – 18851 Goldenwest St.)* which had been announced earlier by the City Clerk as a Late Communication.

Mayor Pro Tem Boardman declared the public hearing open.

Prior to announcing the public speakers, the City Clerk restated for the record the following Late Communications which pertain to this public hearing:

Communication dated November 5, 2002, written by Erik W. Stanley, Esq. Of Liberty Counsel received November 6, 2002 from Applicant/Appellant Rev. Derek Anunciation, Pastor, Praise Christian Center.

Communication dated November 6, 2002 from Howard Zelefsky, Director of Planning titled *Item D-1 – Appeal of CUP No. 02-11 (Praise Christian Church – 18851 Goldenwest St.)*.

Slide show presentation dated November 6, 2002 from the Planning Department titled *Appeal of Conditional Use Permit No. 02-11 Praise Christian Church, 18851 Goldenwest St.*

Gerald Chapman informed Council that he is a resident of the Goldenwest Quarter section. He spoke in favor of approval of the project as it would be a good addition to the area. Dr. Chapman stated that the new use concern could trigger completion of the equestrian trail requirement on the property.

Alan Armstrong stated his opposition to the approval of the application due to reasons of having an extended equestrian trail, and noise factors from an assembly.

Dennis McCullough informed Council that he has been attending outdoor church services and that he believes the permit requirements are unfair. Mr. McCullough spoke regarding the noise factor and expressed his opinion that the building is safe for assembly use.

Derek Annunciation applicant/appellant spoke relative to his appeal based on the Religious Land Use and Institutionalized Persons Act (RLUIPA). Pastor Annunciation stated how public schools are exempted and that he is requesting equal treatment. He stated the conditions suffered by the churchgoers including assembly in outdoor conditions.

Michael D'Anglo objected to the conditions as set forth by the Conditional Use Permit on the grounds that it violated the 14th Amendment and the Religious Land Use and Institutionalized Persons Act (RLUIPA). He stated his belief that the city cannot enforce a zoning ordinance which burdens religious practice. Mr. D'Anglo questioned how the building could be safe for 80 people for manufacturing use but not for 88 people for religious assembly.

As there were no persons present to speak further on the matter and there were no further protests filed, either written or oral, Mayor Pro Tem Boardman declared the public hearing closed.

Councilmember Green spoke regarding three earthquakes that he stated recently occurred in Italy and about a school built with shoddy construction. He stated he does not wish to cut back on public safety.

Fire Chief Michael P. Dolder responded to Councilmember Green's inquiry regarding certain safety precautions and informed Council that schools are under State Code jurisdiction.

Councilmember Dettloff continued deliberation on the safety matter and asked questions regarding fire hydrants.

Fire Chief Dolder reported and stated the code requirement for Praise Christian Church is the same as for any other occupancy and that it is not being singled out.

Discussion was held regarding the issue of the potential need for soundproofing.

Assistant Planner Da Veiga answered questions as to if the Church were to expand its programs the effect there would be in relation to parking lot vehicle accommodations.

Planning Director Howard Zelefsky responded to Council questions regarding when occupancy can take place, stating that this will occur once all apparatus as discussed have been installed.

Councilmember Winchell initiated discussion on the public speaker, Dr. Chapman's comments on the equestrian trails. Councilmember Winchell asked what would trigger completion.

Assistant Planner Da Veiga reported that an extensive change of the exterior would trigger trail completion but it would not be required with the religious assembly use, which is limited used within the facility.

Planning Director Zelefsky stated he sympathizes with Dr. Chapman's request but is not legally able to accommodate until sometime in the future when a residential use application could possibly trigger the change.

Councilmember Houchen inquired regarding fire exits, to which Fire Chief Dolder responded.

Councilmember Winchell stated that it must be stressed that the Council has great concern relative to the safety issue aspect.

A motion was made by Winchell, second Green to sustain the decision of the Planning Commission and approve Conditional Use Permit No. 02-11 with Findings and Conditions of Approval (**Attachment No 1* immediately following this item after roll call vote in this set of minutes**) and to add Condition #13 Area of Benefit Fee as set forth in the Interdepartmental Communication dated November 6, 2002 in the Late Communication packet:

13. A Holly-Seacliff Area of Benefit fee in the amount of \$44,809,80 shall be paid in accordance with City Council Resolution No. 2002-59 for fair share costs associated with roadway improvements along Goldenwest Street.

(The suggested condition is a code requirement and reflects the fair share cost of roadway improvements in the Holly-Seacliff area assessed to properties which front an arterial roadway and are identified in Resolution No. 2002-59. The subject project is located on property comprised of three parcels fronting Goldenwest Street and are identified as Assessor's Parcel Nos. 110-220-02, 110-220-03, and 110-220-04. Payment of the fee is required prior to occupancy of the subject building.)

The motion carried by the following roll call vote:

AYES:	Green, Dettloff, Boardman, Houchen, Winchell, Bauer
NOES:	None
ABSENT:	None
ABSTAIN:	Cook

ATTACHMENT NO. 1*
FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 02-11

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the proposed religious assembly land use and building remodeling involves minor alteration of an existing private structure with negligible or no expansion of use beyond that previously existing on the project site.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 02-11:

1. Conditional Use Permit No. 02-11 for the establishment, maintenance and operation of a 2,840 sq. ft. religious assembly facility within an existing 21,800 square foot landscape warehouse building, including joint use parking based on divergent hours of operation of uses and the addition of 19 parking spaces, will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed religious assembly use will be located in an existing building with adequate separation to adjacent residential properties and soundproofing of the building will reduce potential noise impacts generated by the religious assembly use.
2. The conditional use permit will be compatible with surrounding uses. The subject land use is appropriate at the proposed location because the site is easily accessible by major roadways and anticipated traffic will not impact local residential streets. The church will provide a good transition between the existing on-site commercial use and lower intensity residential uses. The proposed religious assembly use will be compatible with the existing on-site nursery operation and surrounding uses based on divergent parking needs, the limited number of services proposed by the church, and adequate separation from adjacent residential properties.
3. The proposed religious assembly facility will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. In addition, any specific condition required for the proposed use in the Ellis-Goldenwest Specific Plan zoning district. With the addition of 19 parking spaces, the project site will accommodate a total of 46 parking spaces, which accommodates the joint use of parking facilities by both uses based on their divergent hours of operation.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CG (Commercial General) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

LU 4.2.1: Require that all structures be constructed in accordance with the requirements of the City's building and other pertinent codes and regulations; including new, adaptively reused, and renovated buildings.

LU 13: Achieve the development of a mix of governmental service, institutional, educational, and religious uses that support the needs of Huntington Beach residents.

LU 13.1: Provide for the continuation of existing and development of new uses, such as governmental, administrative, public safety, human service, cultural, educational, religious, and other uses that support the needs of existing and future residents and businesses.

LU 13.1.2: Allow for the continuation of existing and development of new religious facilities in any land use zone where they are compatible with adjacent uses and subject to City review and approval.

The proposed development plan for the establishment of the Praise Christian Church facility promotes renovation and re-use of the building and site in a manner that will be consistent with the aforementioned goals and objectives of the City's General Plan. The project is consistent with General Plan Land Use goals, objectives and policies which encourage development of a mix of governmental service, institutional, educational, and religious uses that support the needs of Huntington Beach residents and advocate development of new religious facilities where they are compatible with adjacent uses.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 02-11:

1. The site plan, floor plans and elevations received and dated July 2, 2002 shall be the conceptually approved layout with the following modifications:
 - a. The site plan and floor plans shall indicate the maximum seating capacity for the assembly area.
 - b. The plans shall be amended to relocate three parking spaces from the terminus of the drive aisle to the southerly boundary of the parking area continuing with 90-degree parking as modified by staff on parking layout dated August 30, 2002.
 - c. The plans shall indicate the method and materials for soundproofing the interior of the space to be occupied by the assembly use or shall provide proof of compliance with the maximum decibel level of 55 db(A) at the southerly property line.
 - d. Parking lot striping detail shall comply with Chapter 231 of the Zoning and Subdivision Ordinance and Title 24, California Administrative Code. **(Code Requirement)**
 - e. Depict all utility apparatus, such as but not limited to back flow devices and Edison transformers on the site plan. Utility meters shall be screened from view from public rights-of-way. Electric transformers in a required front or street side yard shall be enclosed in subsurface vaults. Backflow prevention devices shall be prohibited in the front yard setback and shall be screened from view. **(Code Requirement)**
 - f. All exterior mechanical equipment shall be screened from view on all sides. Rooftop mechanical equipment shall be setback 15 feet from the exterior edges of the building. Equipment to be screened includes, but is not limited to, heating, air conditioning, refrigeration equipment, plumbing lines, ductwork and transformers. Said screening shall be architecturally compatible with the building in terms of materials and colors. If screening is not designed specifically into the building, a rooftop mechanical equipment plan showing screening must be submitted for review and approval with the application for building permit(s). **(Code Requirement)**

- g. Depict all gas meters, water meters, electrical panels, air conditioning units, mailbox facilities and similar items on the site plan and elevations. If located on a building, they shall be architecturally designed into the building to appear as part of the building. They shall be architecturally compatible with the building and non-obtrusive, not interfere with sidewalk areas and comply with required setbacks.
 - h. If outdoor lighting is included, energy saving lamps shall be used. All outside lighting shall be directed to prevent "spillage" onto adjacent properties and shall be shown on the site plan and elevations.
- 2. Prior to submittal for building permits, the following shall be completed:
 - a. Zoning entitlement conditions of approval shall be printed verbatim on all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the index.
 - b. All Fire Department requirements shall be noted on the building plans. **(FD)**
- 3. Prior to issuance of building permits, the following shall be completed:
 - a. The subject property shall enter into irrevocable reciprocal driveway and parking easement between the subject site and adjacent northerly properties consisting of APN numbers 110-220-03 and 110-220-02. The location and width of the access way shall be reviewed and approved by the Planning Department and Public Works Department. The subject property owner shall be responsible for making necessary improvements to implement the reciprocal driveway. The legal instrument shall be submitted to the Planning Department a minimum of 30 days prior to building permit issuance. The document shall be approved by the Planning Department and the City Attorney as to form and content and, when approved, shall be recorded in the Office of the County Recorder prior to final building permit approval. A copy of the recorded document shall be filed with the Planning Department for inclusion in the entitlement file prior to final building permit approval. The recorded agreement shall remain in effect in perpetuity, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach. **(Code Requirement)**
 - b. All applicable Public Works fees shall be paid. **(PW)**
 - c. Fire access roads shall be provided in compliance with City Specification #401. **(FD)**
 - d. Fire hydrants must be installed and be in service before combustible construction begins. Shop drawings shall be submitted to the Public Works Department and approved by the Fire Department. Indicate hydrant locations and fire department connections. The Fire Department and Public Works Water Division will work jointly to determine the number, location and installation requirements for on-site fire hydrants. **(FD)**
 - e. Due to a change of use/occupancy, an automatic fire sprinkler system shall be installed throughout the building. For Fire Department approval, plans shall be submitted to the Building Department as separate plans for permits. **(FD)**
 - f. A fire alarm system in compliance with Huntington Beach Fire Code is required. For Fire Department approval, shop drawings shall be submitted to Building as separate plans for permits. The system shall provide water flow, tamper, and trouble alarms, manual pull stations, interior and exterior horns and strobes, and 24-hour central station monitoring. **(FD)**

- g. For Fire Department approval, food preparation fire protection system plans shall be submitted to the Building Department as separate plans for permits. **(FD)**
 - h. A Class III wet standpipe system shall be installed. Shop drawings shall be submitted and approved by the Fire Department prior to system installation. **(FD)**
 - i. All Fire Department requirements shall be noted on the Building plans. **(FD)**
4. During demolition, grading, site development, and/or construction, the following shall be adhered to:
- a. Use sprinkler systems in all areas where vehicles travel to keep damp enough to prevent dust raised when leaving the site:
 - b. Wet down areas in the late morning and after work is completed for the day;
 - c. Use low sulfur fuel (.05%) by weight for construction equipment;
 - d. Attempt to phase and schedule construction activities to avoid high ozone days (first stage smog alerts);
 - e. Discontinue construction during second stage smog alerts.
 - f. Ensure clearly visible signs are posted on the perimeter of the site identifying the name and phone number of a field supervisor to contact for information regarding the development and any construction/ grading activity.
5. Prior to final building permit inspection and issuance of a Certificate of Occupancy, the following shall be completed:
- a. All improvements to the property shall be completed in accordance with the approved plans and conditions of approval specified herein, including landscaping.
 - b. The area for assembly use shall be soundproof, or the applicant shall submit evidence to indicate compliance with the Municipal Code noise levels at the southerly property line.
 - c. The existing domestic water meter shall be relocated and placed at a location that is readily accessible to Water Division personnel, and shall be constructed to meet the requirements of the Water Division. The existing water service may potentially be utilized as determined by the Public Works Department. If the applicant utilizes the existing service served from the on-site private well, the existing domestic water service shall be abandoned per Water Division standards. **(PW)**
 - d. If a separate irrigation water service and meter is required, it shall be installed per Water Division standards and sized to meet the minimum requirements set by the California Plumbing Code. The irrigation water service shall be a minimum of two inches in size. **(PW)**
 - e. If fire sprinklers are required, the building shall have a separate dedicated fire service with appropriate backflow protection device. **(PW)**

- f. Separate backflow protection devices shall be installed per Water Division standards for domestic irrigation and fire water services. **(PW)**
 - g. Fire extinguishers will be installed and located in areas to comply with Huntington Beach Fire Code Standards. **(FD)**
 - h. Service roads and fire lanes, as determined by the Fire Department, shall be posted, marked, and maintained to comply with City Specification No. 415. Additionally, the site plan shall depict all fire lanes. If prior to approved signage fire lane violations occur and the services of the Fire department are required, the applicant may be liable for related expenses. **(FD)**
 - i. Address numbers will be installed to comply with City Specification No. 428. The size of the numbers will be sized a minimum of six (6) inches with a brush stroke of one and one-half (1-1/2) inches. **(FD)**
 - j. Exit signs and exit path markings will be provided in compliance with the Huntington Beach Fire Code and Title 24 of the California Administrative Code. **(FD)**
 - k. The applicant shall restripe the parking lot so that it conforms to provisions of Chapter 231 of the Huntington Beach Zoning & Subdivision Ordinance.
 - l. The applicant shall obtain the necessary permits from the South Coast Air Quality Management District and submit a copy to Planning Department.
 - m. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Planning Department.
 - n. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
 - o. A Holly-Seacliff Area of Benefit fee shall be paid in the amount of \$44,809.80 in accordance with Resolution No. 2002-59 for fair share costs associated with roadway improvements along Goldenwest Street. **(Code Requirement)**
- 6. Use of the project site and building shall be limited to the functions described in the project proposal (applicant's narrative). Services shall be conducted on Sunday, and one Wednesday evening service shall be allowed between the hours of 6 p.m. and 9 p.m.
 - 7. There shall be no conflict in the operating hours based on parking space requirements for the different uses on the parcel. **(Code Requirement)**
 - 8. Evidence of an agreement for such joint use shall be provided by proper legal instrument, approved as to form by the City Attorney. The instrument shall be recorded in the Office of the County Recorder and shall be filed with the City prior to issuance of building permit and/or certificate of occupancy, whichever occurs first. **(Code Requirement)**
 - 9. All doors and windows along the southerly elevation of the subject building area used for assembly shall be closed during all services and events conducted within the subject area.

10. The Planning Director ensures that all conditions of approval herein are complied with. The Planning Director shall be notified in writing if any changes to the site plan, elevations and floor plans are proposed as a result of the plan check process. Building permits shall not be issued until the Planning Director has reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the HBZSO.

INFORMATION ON SPECIFIC CODE REQUIREMENTS:

1. Conditional Use Permit No. 02-11 shall not become effective until the ten (10) calendar day appeal period has elapsed.
2. Conditional Use Permit No. 02-11 shall become null and void unless exercised within one year of the date of final approval, which is September 10, 2002, or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
3. The Planning Commission reserves the right to revoke Conditional Use Permit No. 02-11, pursuant to a public hearing for revocation, if any violation of these conditions or the Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
4. All applicable Public Works fees shall be paid.
5. The development shall comply with all applicable provisions of the Municipal Code, Building Division, and Fire Department as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein.
6. Construction shall be limited to Monday - Saturday 7:00 AM to 8:00 PM. Construction shall be prohibited Sundays and Federal holidays.
7. An encroachment fee shall be required for all work within the City's right-of-way.
8. The applicant shall submit a check in the amount of \$43.00 for the posting of the Notice of Exemption at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the Planning Commission's action.
9. Standard landscape code requirements apply (Chapter 323 of the HBZSO).
10. All landscaping shall be maintained in a neat and clean manner, and in conformance with the HBZSO. Prior to removing or replacing any landscaped areas, check with the Departments of Planning and Public Works for Code requirements. Substantial changes may require approval by the Planning Commission.
11. All signs shall conform to the HBZSO. Prior to installing any new signs, or changing sign faces, a building permit shall be obtained from the Planning Department.
12. A Certificate of Occupancy must be issued by the Planning Department and Building and Safety Department prior to occupying the building.

(City Council) Public Hearing Held - Denied Appeal Filed by James Burgard of the Planning Commission's Approval of Entitlement Plan Amendment No. 02-04 (Old World-Separate Occupancy – Applicant Inge McKellop) 7561 Center Avenue (w/o Huntington Village Way) (420.40)

Mayor Cook announced that this was the time scheduled for a public hearing to consider the following:

Applicant: Inge McKellop

Appellant: James Burgard.

Request: Appeal of the Planning Commission's approval of Entitlement Plan Amendment No. 02-04 to amend Conditional Use Permit No. 75-24 to allow separate occupancy of first floor retail suites and second floor residential units in lieu of requiring the property owner or business owner to occupy both floors of each building. The request also includes no increase in additional parking based on a parking demand analysis. The proposed separate occupancy of second floor residential units requires 41 additional parking spaces pursuant to Chapter 231 of the Huntington Beach Zoning and Subdivision Ordinance.

Location: 7561 Center Avenue (north side of Center Avenue, west of Huntington Village Way).

Environmental Status: Notice is hereby given that this agenda item is categorically exempt from the provisions of the California Environmental Quality Act.

Assistant Planner Paul Da Veiga presented a PowerPoint slide report titled *Appeal of Entitlement Plan Amendment No. 02-04, Old World Village Separate Occupancy, 7561 Center Avenue* which had been announced earlier as a Late Communication by the City Clerk.

Mayor Cook declared the public hearing open.

Prior to announcing the public speakers, the City Clerk restated for the record the following Late Communication which pertains to this public hearing:

Slide show presentation dated November 6, 2002 from the Planning Department titled *Appeal of Entitlement Plan Amendment No. 02-04, Old World Village Separate Occupancy, 7561 Center Avenue*.

Gordon Dennis, Parking Enforcement Officer for Old World, advised Council as to what he considers to be an adequate number of parking spaces for the complex.

Inge McKellop, Applicant, stated that she is among the majority of homeowners in favor of upholding the Planning Commission approval. Ms. McKellop presented reasons why she believes Council should approve the property owners' changes for the Old World Covenants, Conditions and Restrictions (CC & R's).

Richard P. Lewis requested denial, and thanked the Planning Department staff and Councilmembers for meeting with the Old World Village Association on the proposed amendments. Mr. Lewis stated his belief that residents of Old World should not have to monitor parking, that the Reciprocal Parking Agreement should be changed.

James Burgard, Appellant, provided the background of the Old World Village Association since 1992 in bringing owners to be in compliance with the Covenants, Conditions and Restrictions (CC & R's). Mr. Burgard stated his opinion that a "renegade board" is asking to deny entitlement.

David Rofer stated his support of the Planning Commission's decision in requiring the necessary number of parking spaces for the health, welfare and safety of residents. Mr. Rofer recommended that an additional 44 parking spaces be required.

Phillip Larochtar spoke regarding the history of change in the CC & R's. Mr. Larochtar informed Council that the homeowners had an opportunity to question the change with the city planners.

Jack S. King informed Council that only 40% of the parking spaces are occupied at any given time and that therefore he does not perceive a problem. Mr. King stated he concurs with the first speaker, Mr. Dennis, the Parking Enforcement Officer. He requested that Council sustain the Planning Commission recommendation.

Mike Adams, LSA, Association and representative of the Old World Homeowners Association, explained the CC & R change and entitlement process and the reasons as to why it is not a Conditional Use Permit (CUP) matter. He stated that the biggest issue is if there is adequate parking. Mr. Adams urged Council to uphold the Planning Commission decision and spoke in agreement with the Parking Management Plan as part of the Reciprocal Agreement.

Mayor Cook inquired regarding the parking space situation, to which Mr. Adams responded by enumerating the number of spaces.

Councilmember Winchell asked if parking for residents would be cordoned off. Mr. Adams stated that other possibilities are being worked on; and that roping off the area is not being required at this time.

Mike Hermanns spoke regarding his father's business at Old World and that residents did not enforce rules. He addressed property values, stating that there should be the ability to rent out the upstairs residential units and therefore increase property values. Mr. Hermanns informed Council that he does not envision that there will be a parking problem.

Catherine Brisson informed Council that she is an Old World resident who operates a hair salon below her residence. Ms. Brisson stated that she would be in favor of renting out either the upstairs or downstairs unit in the future.

Bernie Bischof, Vice-President, Old World Home Owners Association, stated his approval of the Reciprocal Parking Agreement, which he believes has worked for 25 years. Mr. Bischof informed Council that he has a restaurant and European Market in Old World and celebrated a successful Oktoberfest event.

Mayor Cook inquired regarding the ownership of the garages, to which Assistant Planner Da Veiga responded that they are intended for the residential (upstairs) units.

Dolores Bischof urged Council to uphold the Planning Commission's decision as the correct one. She stated she wished to remind the Old World tenants that it is a commercial center but that they were given the privilege of living onsite.

As there were no persons present to speak further on the matter and there were no further protests filed, either written or oral, the Mayor declared the public hearing closed.

Mayor Pro Tem Boardman informed Council that she had met with the appellant, Mr. Burgard, and original applicant, Ms. McKellop, regarding the issue of parking with regard to the Reciprocal Agreement. Mayor Pro Tem Boardman asked how the issues discussed during public testimony can be resolved.

In response to Mayor Pro Tem Boardman's request, Assistant Planner Da Veiga reported on issues of compliance with the code for the two different uses – commercial and residential.

A motion was made by Houchen, second Bauer to approve Entitlement Plan Amendment No. 02-04 to allow separate occupancy of the first story commercial units and second floor residential units with Findings and Conditions of Approval (**Attachment No. 1* immediately following this item after roll call vote in this set of minutes**). The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

Attachment No. 1*
FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 02-04

FINDINGS FOR APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 02-04:

1. Entitlement Plan Amendment No. 02-04 to amend Conditional Use Permit No. 75-24 to allow separate occupancy of first floor retail suites and second floor residential units in lieu of requiring the property owner or business owner to occupy both floors of each building will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The request for separate occupancy will result in the need for 41 additional parking spaces which can be accommodated by the existing parking surplus as identified by the parking demand analysis prepared by LSA Associates, Inc. The separate occupancy of first floor retail and second floor residential units will not negatively impact the current parking within Old World Village because of the existing surplus of parking currently in existence on-site.
2. The conditional use permit will be compatible with surrounding uses which consist of commercial and office development based on a reciprocal parking agreement that exists between the subject site and adjacent property to the east which allows joint access of all parking areas. The proposed request is compatible with adjacent uses based on the divergent parking needs of office uses on the adjacent property and commercial, restaurant, and residential uses on the subject site.

3. The separate occupancy of the subject buildings will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. In addition, any specific condition required for the proposed use in the district in which it would be located, with the exception of required parking for which the applicant has requested an entitlement plan amendment to allow reduced parking based on a parking demand analysis submitted by the applicant.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Mixed Use on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

Land Use Element

Policy LU 7.1.3: Allow for the continued occupancy, operation, and maintenance of legal uses and structures that exist at the time of adoption of the General Plan and become non-conforming due to use, density, and/or development requirements.

Policy LU 11.1.1: Accommodate the development of structures and sites that integrate housing units with retail and office commercial uses in areas designated for "mixed use" on the Land Use Plan Map in accordance with Policy LU 7.1.1.

Circulation Element

Objective CE 5.1: Balance the supply of parking with the demand for parking.

Policy CE 5.1.1: Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

The request for separate occupancy is consistent with the General Plan in that it allows for the continued operation and occupancy of existing residential units under a separate lease from the first floor business. Based on the findings of the parking demand analysis, the existing parking is adequate in supporting the additional parking need generated by the separate occupancy request while still allowing additional parking for future increases in parking demand.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 02-04:

1. The site plan, floor plans, and elevations received and dated May 14, 2002 shall be the conceptually approved layout.
2. The existing units shall comply with the following:
 - a. A one-hour occupancy separation is required between the proposed apartment use and retail use below. (BD)
 - b. The main electrical panel shall be accessible to occupants of both the first floor unit and second floor unit. (BD)

- c. The residential units on the second floor shall maintain a 70-degree temperature, three feet above the finished floor. The thermostat shall be located such that the control is within said unit. (BD)
 - d. All automatic sprinkler control valves must be accessible from the exterior or other acceptable location as determined by the Fire Department. (FD)
 - e. All fire alarm system devices, sprinkler heads, and communication systems must be tested and accepted by the Fire Department. (FD)
 - f. All fire access must meet conditions as stated in the Huntington Beach Fire Code. (FD)
 - g. All public assembly areas, shops, etc. must be properly posted and occupant load verified and accepted by the Fire Department. (FD)
 - h. All fire suppression and alarm system devices that require labels shall be so labeled and inspected by the Fire Department. (FD)
 - i. Address numbers shall be installed on structures to comply with Fire Dept. City Specification 428. (FD)
3. Submit a Parking Management Plan for review by the Planning Commission at a study session and prior to final approval by the Planning Department. Said plan shall depict the location and parking spaces of all available parking for Old World Village including all on-site parking and all off-site parking available through reciprocal parking agreements. The plan shall designate all the required residential parking including enclosed, open, and guest parking spaces and also include and designate all required parking for the motel. Included in the parking management plan shall be a directional signage plan assisting all patrons to available parking during all special events at the Old World Village. The signage plan shall indicate the location and type of signs used during such events.
4. A one-time building inspection of all existing units with separate occupancy of ground floor and second floor units shall be required within 90 days of approval, and shall be conducted by a third party certified building inspector, to ensure compliance with the conditions of approval. All improvements in compliance with the conditions of approval shall be completed within 180 days of approval of Entitlement Plan Amendment No. 02-04.
5. Prior to renting out units for separate occupancy a one-time inspection of the subject building shall be conducted by a third-party, certified building inspector to ensure compliance with the conditions of approval.
6. Within 90 days of approval, revised CC&Rs shall be submitted to the Planning Department and approved by the City Attorney. The CC&Rs shall reflect the change to allow separate occupancy of mixed use units by the Homeowners' Association. The CC&Rs must be in recordable form.
7. The applicant shall submit three (3) copies of the site plan and the processing fee to the Planning Department for addressing purposes. (FD)

8. The Planning Director ensures that all conditions of approval herein are complied with. The Planning Director shall be notified in writing if any changes to the site plan, elevations and floor plans are proposed as a result of the plan check process. Building permits shall not be issued until the Planning Director has reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the Huntington Beach Zoning and Subdivision Ordinance.
9. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.

INFORMATION ON SPECIFIC CODE REQUIREMENTS:

1. Entitlement Plan Amendment No. 02-04 shall not become effective until the ten calendar day appeal period has elapsed.
2. Entitlement Plan Amendment No. 02-04 shall become null and void unless exercised within one year of the date of final approval which is August 27, 2003, or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
3. The Planning Commission reserves the right to revoke Entitlement Plan Amendment No. 02-04, pursuant to a public hearing for revocation, if any violation of these conditions or the Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
4. The request shall comply with all applicable provisions of the Municipal Code, Building Division, and Fire Department as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein.
5. Construction shall be limited to Monday – Saturday 7:00 AM to 8:00 PM. Construction shall be prohibited Sundays and Federal holidays.
6. All applicable fees from the Building, Public Works, and Fire Departments shall be paid prior to the issuance of Building Permits.
7. The applicant shall submit a check in the amount of \$43.00 for the posting of the Notice of Exemption at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the Planning Commission's action.

Southern California Water Pipeline Franchise Issue Moved Forward on Agenda

A motion was made by Dettloff, second Houchen to move the administrative Item regarding the Southern California Water Pipeline forward. The motion carried unanimously with all present, none absent.

(City Council) Directed Staff to Continue to a Date Uncertain – Whether to Enter into Negotiations for a Franchise Agreement between the City and Southern California Water Company (SCWC) for Pipeline Franchise in Order to Provide Water Service to Bolsa Chica Development Until Determination is made Relative to Bond Issue for Acquisition and Possible Settlement of Lawsuit (1000.10)

The City Council considered a communication from the Administrative Services Director, the City Attorney and the Public Works Director requesting Council's discretion whether to authorize staff to negotiate a pipeline franchise with Southern California Water Company (SCWC). There is a Closed Session item regarding the negotiable terms and conditions on this November 6, 2002 City Council agenda. The City Council will determine whether or not to discuss these terms and conditions in open session or in closed session.

Mayor Pro Tem Boardman recommended that Council delay and take no action relative to working out a franchise agreement at this time. She spoke regarding the fact that with the passage of Proposition 50, there is a possibility of the purchase of 50 acres of the Bolsa Chica Mesa and that there is indication that there is a willing seller.

Mayor Pro Tem Boardman stated concern that due to the above, any efforts to commence work with Hearthside Homes will not come to fruition.

A motion was made by Boardman, second Houchen to continue to a date uncertain until a determination is made relative to Bond Issue for acquisition and possible settlement of lawsuit. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

Consent Calendar – Items Approved

On motion by Dettloff, second Houchen Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Continued from 10/7/02 - Adopted Resolution 2002-92 Regarding Additions and Modifications to the City's Classification Plan Amendment (700.10) Adopted Resolution No. 2002-92 – “A Resolution of the City Council of the City of Huntington Beach to Amend the Classification Plan by Adding and Modifying Classifications and Establishing Compensation in the City Classification Plan.” Submitted by the Administrative Services Director. Funding Source: Fiscal Year 02-03 budget. (Community Relations Officer (Revised) – Recreation, Human & Cultural Services Superintendent (New) – Facilities, Development & Concessions Manager (New) Special Projects Manager (New)).

(City Council) Approved Appointment of John Myers to the Community Services

Commission for a Term to Expire June 30, 2004 (110.20) – Approved the appointment of John Myers to fill the vacancy, created by the resignation of Gary Ernst, on the Community Services Commission as a representative of the Huntington Beach Union High School District for a term to expire on June 30, 2004. Submitted by Mayor Debbie Cook and Councilmember Grace Winchell, Liaisons to the Community Services Commission. Funding Source: Not applicable.

(City Council) Approved Final Tract Map No. 16288 of Tentative Tract Map No. 16288 (PLC One-Lot Division) w/s of Holly Street n/o Main Street (420.60) –

1. Approved Final Tract Map No. 16288 and accepted the offer of dedication, improvements, and bonds pursuant to findings and requirements (ATTACHMENT NO. 1); **AND 2.** Approved the *Subdivision Agreement between the City and PLC, a California General Partnership for Tract No. 16288* and authorized execution by the Mayor and City Clerk (ATTACHMENT NO. 6). **Attachment No. 1 – Findings for Acceptance of Final Map (1)** Final Tract Map No. 16288 is in conformance with the California Subdivision Map Act, the City of Huntington Beach Subdivision Ordinance and Tentative Tract Map No. 16288 Conditions of Approval, as approved by the City Council.

Requirements; (1) Acceptance of offer of dedication shall be subject to completion of improvements and requirements shown on the final map. **(2)** The City Clerk shall file the following bonds with the City Treasurer: (a) Faithful Performance Bond No. B34224585 (Attachment No. 7); (b) Labor and Material Bond No. B34224585 (Attachment No. 7); (c) Monument Bond No. B34224586 (Attachment No. 7). **(3)** The City Clerk shall affix her signature to the map and release it for recordation by the County of Orange. Submitted by the Planning Director. Funding Source: Not Applicable.

(City Council) Appropriated Holly Seacliff Funds for Police Communication Projects (320.45)

– **1.** Appropriated \$1,132,000 from the Holly Seacliff Fund, Number 307 for expenses related to Police Communications equipment; and **2.** Authorized the Chief of Police to expend the funds on expenses related to communications. Submitted by the Chief of Police. Funding Source: Undesignated, unappropriated Holly Seacliff Fund in the amount of \$1,132,000.

(City Council) Approved Office of Criminal Justice Planning (OCJP) Grant for 5th Year Funding for Violence Against Women/Domestic Violence Program - Police Department (340.80) -

1. Accepted the grant between the State of California, Office of Criminal Justice Planning and the City of Huntington Beach; and **2.** Approved the appropriation of \$90,000 from the unreserved, undesignated General Fund Balance, to be reimbursed by the grant from the Office of Criminal Justice Planning; and **3.** Authorized the expenditure of funds not to exceed \$120,000 to pay for contract counseling services, a portion of a detective's salary and some operating costs related to domestic violence. Submitted by the Chief of Police. Funding Source: A 25% City match of \$30,000 is required which has been included in the Police Department's 2002-2003 budget, under the General Investigations, General Fund Account.

(City Council) Approved the County of Orange-Supplemental Law Enforcement Service Fund Grant (SLESF) For Fiscal Year 2002/03 and Authorized Expenditure for Computer Aided Dispatch/Records Management System (CAD/RMS) – Police Department (340.60) -

1. Accepted the grant award of \$386,647.88 from the County of Orange SLESF for funding cycle year 2002/2003; and **2.** Established a separate business unit for this funding; and **3.** Authorized the Chief of Police to expend \$386,647.88, plus any accrued interest on technology associated with the Computer Aided Dispatch/Records Management System (CAD/RMS) for the Police Department, and **4.** Appropriated \$386,647.88, plus any accrued interest to be expended on a CAD/RMS system. Submitted by the Chief of Police. Funding Source: No match is required for this grant.

(City Council) Accepted State Grant - Office of Traffic Safety (OTS) Driving Under the Influence Enforcement Team and Authorized Appropriation of Funds – Police Department (340.80) - 1. Approved and accepted Project Grant AL0321 titled *Office of Traffic Safety Grant Agreement* between the State of California, Office of Traffic Safety and the City of Huntington Beach; and 2. Approved the appropriation of \$136,820 from the unreserved, undesignated General Fund Balance, to be reimbursed by the grant from the Office of Traffic Safety; and 3. Authorized the expenditure of funds not to exceed \$136,820 to provide DUI enforcement, conduct DUI checkpoints and conduct a DUI education program. Submitted by the Chief of Police. Funding Source: This is a reimbursable grant, which is funded by the State of California-OTS in the amount of \$136,820 for the period of October 1, 2002 to December 31, 2002. Funds will need to be appropriated from the unreserved, undesignated General Fund Balance, but will be fully reimbursed by the grant from the Office of Traffic Safety. No other matching or in-kind City funds are required for this grant.

(City Council) Approved Submittal of Application for California Coastal Commission Project – The Whale Tail Competitive Grants Program to Fund Environmental Education/Community Art Trash Receptacle Project Along Pacific Coast Highway and Magnolia Street (340.80) – Approved the submission of a Whale Tail grant application to the California Coastal Commission for funding in the amount of \$15,000. Submitted by the Public Works Director. Funding Source: Potential California Coastal Commission competitive grant valued at \$15,000. No matching funds are required. This is a maximum two-year grant. No funding sources have been identified to continue this program after the two-year period; so the program will end at that time and the receptacles will be removed.

(City Council) Approved Contract No. CP-0124 Between the Orange County Sanitation District and the City for the Cooperative Projects Program – Fiscal Year 2001/02 (600.25) – Approved and authorized the Mayor and City Clerk to execute the *Orange County Sanitation District Cooperative Projects Program Contract No. CP-0124*. Submitted by the Public Works Director. Funding Source: Funds in the amount of \$50,000 are available from the Sewer Service Charge Account for the first phase of this project. (First Phase Rehabilitation of sewer mains in area bounded by Warner/ Newland/Heil/405 Freeway.)

(City Council) Approved the First Amendments for (1) CC-1171 and (2) CC-1163 Re: the Agreements Between the City and Inspection Engineering Construction for Two Traffic Signal Projects (600.55) – 1. Authorized the Mayor and City Clerk to execute *Amendment No. 1 to Agreement between the City of Huntington Beach and Inspection Engineering Construction for Installation of Traffic Signals*; and 2. Authorized the Mayor and City Clerk to execute *Amendment No. 1 to Agreement between the City of Huntington Beach and Inspection Engineering Construction for Traffic Signal Communication and Operation Upgrade Project*. Submitted by the Public Works Director. Funding Source: Not Applicable.

(City Council) Adopted Resolution No. 2002-108 Relating to the Establishment of Classification Specifications for Appointive Department Head Positions (700.10) Adopted **Resolution No. 2002-108** - “A Resolution of the City Council of the City of Huntington Beach Relating to the Establishment of Classification Specifications for Appointive Department Head Positions.” Submitted by the City Administrator. Funding Source: No funding is required.

(City Council) Approved Affordable Housing Declaration of Conditions, Covenants and Restrictions Between the City and Southridge Homes for Property Located at 19172-B and 19172-C Holly Street (n/o Clay Avenue) Tract 15964 (13 – Lot Single Family Residential Subdivision) (600.10) – Approved the *Declaration of Conditions, Covenants and Restrictions for Property (Re-Sale Restrictions)* by and Between the City of Huntington Beach and Southridge Homes, a California General Partnership, and Authorized the Mayor and City Clerk to Sign, Execute and Record. Submitted by the Planning Director. Funding Source: Not applicable.

(City Council) Received & Filed Report from the October 16, 2002 Committee Meeting Regarding Procedure to Create New City Department Head Classifications (700.10) – Received and filed the Report from the October 16, 2002 meeting held at direction of Council on October 7, 2002, relative to the past and present city procedure used to create new Department Head classification. Jointly submitted by the City Administrator and City Clerk. Funding Source: Not applicable. (Report located in this set of minutes on page Nos. 32 & 33).

The following Administrative Item was moved forward following the Public Hearing portion of this meeting on Page No. 25.

(City Council) Directed Staff to Continue to a Date Uncertain – Whether to Enter into Negotiations for a Franchise Agreement between the City and Southern California Water Company (SCWC) for Pipeline Franchise in Order to Provide Water Service to Bolsa Chica Development Until Determination is made Relative to Bond Issue for Acquisition and Possible Settlement of Lawsuit (1000.10)

The following Administrative Item was moved forward following the Public Comments portion of this meeting on Page Nos. 7-9.

(City Council) Directed Staff To Enhance the Existing Water Quality Committee to be Appointed by the Mayor to Address the Following Issues: Clean Water Act of the U.S.; Dock Construction and Permitting; Pierhead Lines; Dredging; Funding and Direct Approval of Additional Meetings be Scheduled - Regarding Drafting Municipal Code Amendments to the Huntington Harbour and Boating Regulations (Including Live Aboards) (820.10)

(City Council) Adopted Resolution No. 2002–109 to Modify Certain Benefits for Non-Represented Employees (720.20)

The City Council considered a communication from the City Administrator requesting Council approval of **Resolution No. 2002–109** which authorizes the modification of salary and benefits for Non-Represented employees.

City Administrator Ray Silver reported on the cost of living increase (COLA) CAPS for the Public Employee Retirement Systems (PERS) Survivor Benefits.

Mayor Pro Tem Boardman expressed the concern regarding the budget shortfall, which she quoted as \$8,000,000 last year and \$7,000,000 this year. Mayor Pro Tem Boardman stated that although there is a need to pay competitive wages, she could not vote to approve the 3% increase.

A motion was made by Dettloff, second Green to Adopt **Resolution No. 2002-109** - "A Resolution of the City Council of the City of Huntington Beach Modifying Salary and Benefits for Calendar Year 2003 for Non-Represented Employees." The motion carried by the following roll call vote:

AYES: Green, Dettloff, Cook, Houchen, Winchell, Bauer
NOES: Boardman
ABSENT: None

(City Council) Adopted Resolution No. 2002-110 to Modify Certain Salary and Benefits for the Elected City Treasurer (700.90)

The City Council considered a communication from the City Treasurer requesting Council approval of **Resolution No. 2002-110** which authorizes the salary and benefits for the City Treasurer be modified to be the same as proposed for the Non-Represented Employees.

City Treasurer Shari Freidenrich presented an oral report.

A motion was made by Green, second Dettloff to Adopt **Resolution No. 2002-110** - "A Resolution of the City Council of the City of Huntington Beach Modifying Benefits and Salary for Calendar Year 2003 for the Elected City Treasurer." The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Adopted Resolution No. 2002-111 to Modify Certain Salary and Benefits for the Elected City Clerk (700.90)

The City Council considered a communication from the City Clerk requesting Council approval of **Resolution No. 2002-111** which authorizes the salary and benefits for the City Clerk be modified to be the same as proposed for the Non-Represented Employees.

The City Clerk provided an oral report.

A motion was made by Green, second Houchen to Adopt **Resolution No. 2002-111** - "A Resolution of the City Council of the City of Huntington Beach Modifying Salary and Benefits for Calendar Year 2003 for the City Clerk." The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Continued to November 18, 2002 - Approve Implementation Strategy of the Downtown Specific Plan/Parking Master in Lieu Fee Program (340.20)

Communication from the Planning Director and the Economic Development/Deputy Executive Director requesting City Council direction on the use of the fees and future of the program.

A motion was made by Houchen, second Cook to continue to November 18, 2002. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Adopted Ordinance Nos. 3584 and 3585 Amending the Huntington Beach Zoning and Subdivision Ordinance Respectively to (1) Add the CZ Coastal Zone Overlay (Zoning Map Amendment No. 96-5A) and (2) Prezone Acreage Adjacent to the East Garden Grove – Wintersburg Channel (Zoning Map Amendment No. 96.5B) (Parkside Estates Public Hearing Held 10/21/02) (440.50)

After the City Clerk read by title, a motion was made by Green, second Winchell to adopt **Ordinance No. 3584** – *“An Ordinance of the City of Huntington Beach Amending the Huntington Beach Zoning and Subdivision Ordinance to Add the CZ Coastal Zone Overlay (Zoning Map Amendment No. 95-5A)”* The motion carried by the following roll call vote.

AYES: Green, Dettloff, Cook, Houchen, Winchell, Bauer
NOES: Boardman
ABSENT: None

After the City Clerk read by title, a motion was made by Green, second Dettloff to adopt **Ordinance No. 3585** – *“An Ordinance of the City of Huntington Beach Amending the Huntington Beach Zoning and Subdivision Ordinance to Prezone Acreage Adjacent to the East Garden Grove-Wintersburg Channel (Zoning Map Amendment No. 96-5B.)”* Submitted by the Planning Director. (Public hearing held and Ordinances approved for introduction 10/21/02.) The motion carried by the following roll call vote:

AYES: Green, Dettloff, Houchen, Bauer
NOES: Boardman, Cook, Winchell
ABSENT: None

(City Council) Approved Introduction of Ordinance No. 3586 Amending the Huntington Beach Municipal Code by Adding Chapter 7.14 Prohibiting Performances of Wild and Exotic Animals for Public Entertainment or Amusement and Restricting the Display of Wild and Exotic Animals (640.10)

Councilmember Bauer stated that he is in opposition to this ordinance, as he does not believe there is a problem in the city.

Councilmember Winchell stated her concern that it is a public safety issue. Councilmember Houchen concurred.

After the City Clerk read by title, a motion was made by Houchen, second Green to approve introduction of **Ordinance No. 3586** – *“An Ordinance of the City of Huntington Beach Adding Chapter 7.14 to the Huntington Beach Municipal Code Prohibiting the Performances of Wild and Exotic Animals for Public Entertainment or Amusement and Restricting the Display of Wild and Exotic Animals.”* The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell
NOES: Bauer
ABSENT: None

(City Council) Approved Consideration of Urgency Ordinance at the November 18, 2002 Meeting Amending the Zoning and Subdivision Code Chapter 230 and a Resolution for the Adoption of a Park and Recreation Mitigation Fee on Residential Commercial and Industrial Developments (Pulse Marketing) Park Strategy and Nexus Study (“Quimby Fee”) (640.10)

The City Council considered a communication from Councilmember Ralph Bauer transmitting the following **Statement of Issue**: The City Attorney’s Office has drafted an ordinance amending the Zoning and Subdivision Ordinance, Chapter 230, as well as a resolution to implement as 86¢ per square foot park mitigation fee on residential development and additions, and a 23¢ per square foot mitigation fee on commercial and industrial development and additions.

Pulse Marketing prepared an addendum to the “Park Strategy and Fee Nexus Study” of December 2001 which was the basis for the City Council’s approval in the “Quimby Fee” earlier this year.

A motion was made by Bauer, second Winchell to consider adoption of this item at next regular meeting as an urgency ordinance after proper public notice is provided. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Adopted Motion to Consider Emergency Item After Posting of Agenda Pursuant to Government Code Section 54954.2 (b) (2) and Directed Staff to Prepare an Ordinance Repealing the Adopted (Banner Towing) Aerial Advertising Ordinance (640.10)

After discussion, a motion was made by Boardman, second Winchell to take action on the above captioned subject matter after posting of agenda. The motion carried unanimously with all present, none absent.

A motion was made by Boardman, second Green to direct staff to prepare an ordinance repealing the recently adopted banner towing ordinance. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Received and Filed Report from the October 16, 2002 Committee Meeting Regarding Procedure to Create New City Department Head Classifications (Refer to Page No. 28 in this set of minutes) (700.10)

REPORT

FROM THE OCTOBER 16, 2002 MEETING DIRECTED TO BE HELD BY THE CITY COUNCIL AT ITS OCTOBER 7, 2002 COUNCIL MEETING REGARDING AGENDA ITEM F-1 SUBMITTED BY THE CITY CLERK RELATIVE TO THE PROCEDURE FOR THE CREATION OF NEW CITY DEPARTMENT HEAD POSITIONS

Pursuant to City Council direction on October 7, 2002, a meeting was held between Mayor Debbie Cook, Councilmember Grace Winchell, City Clerk Connie Brockway, accompanied by George W. Shaeffer, Jr. Attorney at Law, City Administrator Ray Silver, Personnel Commission Chair Flint Morrison, Personnel Commission Vice Chair Rick Taylor, City Attorney Gail Hutton, Mike Miller, City Attorney's representative assigned to the Personnel Commission, Assistant City Attorney Paul D'Alessandro, Assistant City Administrator William Workman, Administrative Services Director Clay Martin.

As a result of this meeting an understanding was reached between the participants relative to the City Clerk's concern expressed in Agenda Item F-1 on the October 7, 2002 City Council Agenda regarding the change in procedure used by the city to establish a new city department head position.

The City Attorney clarified that department head positions are, in addition to being exempt from the Competitive Services, are also exempt from the Personnel System of the City. It was clarified that establishment of a position description, and review by the Personnel Commission, for subsequent recommendation to the City Council, is no longer necessary and that an ordinance establishing the department is not required, although may be enacted.

The City Clerk has the responsibility for maintaining all City Council adopted Resolutions. The last newly established City Department Head position (Director of Organizational Effectiveness) was created in 1999 by adoption of Resolution No. 99-10 amending the City Classification Plan. At the October 16, 2002 meeting attended by the above stated parties the City Clerk's concerns were understood due to her anticipation that a similar process would be used and a resolution establishing the position would be adopted by Council for maintenance in the official City Council records.

It was agreed upon by all parties present that the portion of the City Administrator's report presented to the City Council at the October 7, 2002 Council Meeting containing the statement **"Additionally, the City Clerk's action as an elected official attempting to influence the personnel process is prohibited in Municipal Code Section 2.76.070 Use or threat to use political authority or influence – and setting forth the text of the code is withdrawn by the City Administrator.** The City Clerk has the responsibility under the charter to maintain books recording all resolutions and that she relied upon Resolution No. 99-10 adopted February 16, 1999 as the process by which she could continue to maintain city resolutions of city personnel classifications.

At the October 16, 2002 meeting it was agreed that necessary steps will be taken to correct the identified inconsistency. Following clarification by the City Attorney, the City Clerk now understands that since 1993, pursuant to a city ordinance, and in conformance with the City Charter, department

head positions are exempt from the city's competitive service and the personnel system. As such, the City Charter does not require that new department head classifications and job descriptions be created, processed through the Personnel Commission, and transmitted to the City Council to adopt by Resolution; that it is not required that departments be established by ordinance due to the exemption of department heads from the competitive service and from the City Personnel System.

Pursuant to Municipal Code § 2.72.070, the Personnel Commission has the power to act in an advisory capacity to the City Council and the City Administrator on personnel administration.

The City Clerk and the City Administrator mutually respect each other's roles, responsibilities and authority as defined in the City of Huntington Beach Charter and Municipal Code.

The City Administrator and the City Clerk will continue to work with the City Council in their combined efforts to improve the overall quality of municipal service to the citizens of Huntington Beach.

A copy of this Report shall be attached to the official minutes of this Council meeting.

Adjournment – City Council/Redevelopment Agency

Mayor Cook adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, November 18, 2002, at 5:00 p.m., in Room B-8, Civic Center, 2000 Main Street, Huntington Beach, California.

City Clerk and ex-officio Clerk of the City
Council of the City of Huntington Beach
and Clerk of the Redevelopment Agency
of the City of Huntington Beach, California

ATTEST:

City Clerk-Clerk

Mayor-Chairman